

## **KENTUCKY DEPARTMENT OF EDUCATION**

### **STAFF NOTE**

#### **Action/Discussion Item:**

Request from the Ballard County Board of Education for a waiver of 704 KAR 3:285, Programs for the Gifted and Talented, Section 9 (1)

#### **Applicable Statute or Regulation:**

KRS 157.196, 157.200 (1) (n), KRS 157.224, KRS 157.230, 704 KAR 3:285, KRS 161.052 (EPSB), 16 KAR 2:110 (EPSB)

#### **Action Question:**

Should the Kentucky Board of Education (KBE) grant the Ballard County Board of Education's request for a waiver of a specific portion of 704 KAR 3:285, Programs for the Gifted and Talented, Section 9 (1)?

#### **History/Background:**

**Existing Policy.** The Ballard County Board of Education has asked for a waiver from Section 9 of 704 KAR 3:285 (See attached letter from Ballard County.). Ballard County would like to use the \$20,399 allocated to Ballard County Schools for Gifted/Talented Educational Services be spent directly on the students in the form of STEM activities, field trip opportunities, workshops, special instructors, and other related gifted/talented instructional opportunities. In looking at Ballard County's Gifted and Talented data over the past five years, it appears that the number of students being identified as gifted and talented has increased. Section 9 (1) states the state funds for gifted education shall be used specifically to provide direct services to students who are gifted and talented.

An outline of relevant statutes and regulations related to section 9 is provided below, including the specific requirement to be waived (in bold):

704 KAR 3:285 states:

*"Section 9. Budget. Funding. (1) State funds for gifted education shall be used specifically for direct services to students who are gifted and talented. Direct services to students identified as demonstrating gifted and talented behaviors and characteristics shall be provided by professionally qualified and certified personnel as required by the Education Professional Standards Board in 704 KAR 20:280. **Seventy-five (75) percent of a district's gifted education allocation shall be used to employ properly certified personnel to provide direct instructional services.***

*(2) A local district budget decision impacting state funds for gifted education after the annual submission of the local district education plan shall be coordinated through the district gifted education coordinator. If the change will cause a major or significant adjustment to the district gifted education budget, the change shall be submitted to the Kentucky Department of Education for approval as an amendment.*

*(3) A district receiving state gifted education funding shall designate a gifted education coordinator to:*

- (a) *Oversee the district gifted education operation;*
  - (b) *Serve as liaison between the district and the state;*
  - (c) *Ensure internal compliance with state statutes and administrative regulations; and*
  - (d) *Administer and revise the gifted education program budget.*
- (4) *State funding to a district shall be contingent upon:*
- (a) *Employing properly certified personnel to administer and teach in the program;*
  - (b) *The annual submission of a local district gifted education year-end report;*
  - (c) *A summative evaluation of the program and student progress; and*
  - (d) *Complying with this administrative regulation.”*

KRS 157.196 requires:

*“Each exceptional student as defined in KRS 157.200 shall have an individual education plan that shall serve as the centerpiece of the student's educational career and the communication vehicle between the parents and school personnel. The plan shall enable the parents and school personnel to decide the student's educational needs, the services needed to achieve those needs, and the anticipated results. The plan shall be used as a document to monitor the student's progress. School personnel shall provide the parents with reports of the progress toward the student's annual goals at least as often as report cards go to nondisabled students.”*

KRS 157.224 requires:

*“All county and independent boards of education shall operate special education programs pursuant to an annual application which has been approved by the Kentucky Department of Education pursuant to standards set out in administrative regulations promulgated by the Kentucky Board of Education.”*

KRS 161.052 requires:

*“That all persons employed as a teacher for gifted education hold an appropriate certificate endorsement for gifted education.”*

16 KAR 2:110 establishes:

*“A preparation-certification program for teachers for gifted education.”*

### **Staff Recommendation(s) and Rationale(s):**

Section 9 (1) makes reference to the certification requirement for teachers working with gifted students. KRS 161.052 “requires that all persons employed as a teacher for gifted education hold an appropriate certification endorsement for gifted education.” 16 KAR 2:110 “establishes a preparation-certification program for teachers for gifted education.” The Kentucky Board of Education does not have the statutory authority to waive the requirements of statutes or regulations promulgated by the Education Professional Standards Board. If the district desired a waiver from certification requirements, it would need to be requested from the Education Professional Standards Board.

Section 9 (1) also states that “seventy-five (75) percent of a district’s gifted education allocation shall be used to employ properly certified personnel to provide direct instructional services.” The Kentucky

Board of Education (KBE) does have the statutory authority to waive this specific requirement; however, per KRS.161.052, a properly certified person would need to be employed to work with Ballard County's gifted and talented students.

Section 9 (3) states that "a district receiving state gifted education funding shall designate a gifted education coordinator." In follow-up communications with the district, the superintendent has indicated a district gifted education coordinator will be designated. Thus, Kentucky Department of Education (KDE) staff recommends approval of the waiver request that would allow relief to Ballard County from the specific portion of Section 9 (1) that requires spending seventy-five percent of the district's gifted education allocation to employ properly certified personnel to provide instruction. The waiver shall be limited to this specific provision only.

The district can then use their general fund dollars to employ the properly certified staff to provide services to gifted and talented students and use all of the \$20,399 to provide direct services to gifted students through trips to museums, art galleries, plays, science exhibits, etc. connected to the students' gifted services plans.

This waiver request points out a larger issue related to the services provided to gifted and talented students. The allocation for gifted and talented students has remained the same over many years. Therefore, KDE staff recommends that the department review 704 KAR 3:285 with input from stakeholders and bring recommendations for revision back to the KBE at a later date.

**Impact on Getting to Proficiency:**

Services provided to gifted and talented students help them to make continuous progress toward their goals.

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Commissioner of Education

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